

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

PLAINTIFF

VS.

CIVIL ACTION NO. 3:10-CV-00541-WHB-LRA

REED PIERCE'S SPORTSMAN'S GRILLE
LLC, D/B/A REED PIERCE'S

DEFENDANT

DEFENDANT'S EMERGENCY MOTION TO STAY DISCOVERY

COMES NOW, Defendant Reed Pierce's Sportsman's Grille LLC, d/b/a Reed Pierce's ("Reed Pierce's" or "Defendant") pursuant to Rules 7 and 26 of the Federal Rules of Civil Procedure and Local Uniform Civil Rule 7(b)(8) and moves this Court to stay all discovery pending a ruling on Reed Pierce's Motion for Summary Judgment Due to the Equal Employment Opportunity Commission's Failure to Conciliate in Good Faith. In support, Reed Pierce's shows as follows:

1. Plaintiff Equal Employment Opportunity Commission ("EEOC" or "Plaintiff") filed this action on September 29, 2010 asserting claims for sex discrimination under Title VII of the Civil Rights Act of 1964, as amended. Plaintiff filed an Amended Complaint on October 18, 2010.
2. Reed Pierce's timely answered Plaintiff's Amended Complaint on December 27, 2010.
3. Reed Pierce's filed its Motion for Summary Judgment Due to the Equal Employment Opportunity Commission's Failure to Conciliate in Good Faith on April 12, 2011 because the Plaintiff failed to meet its statutory obligation to conciliate in good faith prior to instituting this suit. 42 U.S.C. §2000(e)-5(f)(1); *see also EEOC v. Agro Distribution*, 555 F.3d

462, 468 (5th Cir. 2009). When the EEOC fails to meet this statutory obligation, as it did here, “dismissal remains the appropriate sanction. 555 F.3d at 469.

4. This Court has discretion to grant a stay of discovery in order to keep costs at a minimum for the parties and conserve judicial resources pending the outcome of Reed Pierce’s Motion for Summary Judgment. Both parties face significant burden if discovery proceeds, and the Plaintiff will not be prejudiced if discovery is temporarily stayed. *See Landry v. Air Line Pilots Ass’n Int’l AFL-CIO*, 901 F.2d 404, 435-36 (5th Cir. 1990), *cert. denied*, 111 S. Ct. 244 (1990); *Nankivil v. Lockheed Martin Corp.*, 216 F.R.D. 689 (M.D. Fla. 2003), *aff’d*, 87 Fed. Appx. 713 (11th Cir. 2003) (good cause to stay discovery exists where “resolution of preliminary motion may dispose of entire action.”); *see also* Fed. R. Civ. P. 26(c) (the Court, “may, for good cause shown, issue an order to protect a party or person from . . . undue burden or expense.”).

5. Counsel for Plaintiff has advised that Plaintiff opposes this Motion.

6. This Motion is based on the pleadings and the Memorandum of Authorities which is being filed contemporaneously with this Motion.

THIS, the 18th day of April, 2011.

Respectfully submitted,

REED PIERCE’S SPORTSMAN’S GRILLE LLC, d/b/a
REED PIERCE’S

By Its Attorneys
WATKINS LUDLAM WINTER & STENNIS, P.A.

By: /s/ Karen Gwinn Clay
KAREN GWINN CLAY

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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

P. David Lopez
James L. Lee
Gwendolyn Young Reams
U.S. Equal Employment Opportunity Commission
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THIS the 18th day of April, 2011.

/s/ Karen Gwinn Clay
Karen Gwinn Clay